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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,182	10/05/2001	Daniel J. McCorkle	SHU1-BN42	5069
21611	7590	07/14/2004	EXAMINER	
SNELL & WILMER LLP 1920 MAIN STREET SUITE 1200 IRVINE, CA 92614-7230			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 07/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/972,182

**Applicant(s)**

MCCORKLE ET AL.

**Examiner**

Chi Q Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 and 15-26 is/are allowed.
- 6) ☒ Claim(s) 9-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

The applicant's terminal disclaimer filed on 4/29/04 is acknowledged.

#### ***Claim Objections***

Claim 13 is objected to because of the following informalities: it is not clear that "a lower flange" is the same as "a flange member" cited in claim 9. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worthing (US 4,817,264) in view of Bartholomew (US 5,207,462).

In regard to claim 9, Worthing discloses fastener to a panel comprising a body member 21 with a rim member (see fig. 3) extending upward from the body member, a hole 8 engaging surface on the body member, a lower flange 19 extending outward from the body member, the hole engaging surface initially aligns the spacer within the hole and the rim member has an inner wall surface with an annular passage 6. Worthing does not teach expressly the body member is metal and the trim member has inner wall surface with an annular groove. Bartholomew teaches a metal body member 80 (col. 4, lines 34-35) having inner annular groove 90 (fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the Worthing's

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spacer with Bartholomew for the body member is made by metal material such as aluminum, and having an inner groove. The motivation for doing so would have been to provide more strength and a recessed seat for the bolt head.

In regard to claims 10, 12-14 the rim member outer wall surface is coated with a sealing compound 19 (thermoplastic material (col. 5, line 1), the flange member 19 is connected to the body member on an opposite side from the rim member, wherein a central aperture extends through the body member and the flange member.

In regard to claim 11, Worthing and Bartholomew teach the structural elements for the spacer as stated except for a second sealing compound is positioned within the rim member. As stated in col. 5, lines 10-13, the adhesive 19 is allowed to cure and form a firm bond between the panel and fastener. The examiner considers this would have been equivalent to a second sealing compound, which is positioned within the rim member because the fastener is secured the spacer member to the panel member.

#### ***Allowable Subject Matter***

Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-5, 21-23, 6-7, 24-25, 8, 26 and 16-20 are allowed.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 9-14 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ollis (US 5,149,235), Smith (US 6,488,460), Rinse (US 5,437,750), Selle (US 6,095,738), and Swanstrom (US 4,577,402) teach spacer structure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
CQN  
7/8/04



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600